IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

UNITED STATES OF AMERICA

v.   CRIMINAL ACTION NO. 3:14-00045-01

DEMETRIUS D. THOMAS

MEMORANDUM OPINION AND ORDER

Defendant Demetrius Thomas, pro se, filed his Motion Requesting an Extension to File a

§ 2255 Petition (ECF No. 80) on February 12, 2016. From a review of the docket sheet for this

case, Defendant was sentenced and a judgment entered on August 6, 2014. The Defendant

appealed and the judgment of the district court was affirmed. The judgment took effect upon

issuance of the appellate court's mandate on March 18, 2015. In his Motion, Defendant argues that

he does not know how to file a § 2255 petition and does not have access to help or materials

because he is currently housed in special housing. He requests an extension to file his petition

"until I can be placed back in population where I can benefit from help from those with

knowledge." ECF No. 80.

The Court **DENIES** the Motion. As no petition has yet been filed, the district court has no

jurisdiction to consider the Motion. See *U.S. v. White*, Nos. 07-6513, 07-7095, 2007 WL 4302418,

at *1 (4th Cir. December 10, 2007); *Green v. United States*, 260 F.3d 78 (2nd Cir. 2001).

Defendant's Motion does not include any allegations sufficient to allow the Court to construe it as

a § 2255 petition. Instead, Defendant must file any such petition within the one year limitation

period found in 28 U.S.C. § 2255, and then may seek leave to amend or change the claims

thereafter. The Court also notes that the instructions and forms necessary to file a § 2255 petition

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were mailed to Defendant by the deputy clerk on February 12, 2016, upon the filing of this Motion. ECF No. 81.

The Court **DIRECTS** the Clerk to send a copy of this Memorandum Opinion and Order to counsel and the defendant, the Unites States Attorney's Office, the United States Probation Office, and the United States Marshals Service.

ENTER: February 19, 2016

ROBERT C. CHAMBERS, CHIEF JUDGE